

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-293-JRG
vs.)	
)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO., LTD;)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG SEMICONDUCTOR)	<div style="background-color: black; width: 150px; height: 1.2em;"></div>
INC.,)	
)	
Defendants.)	

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-294-JRG
vs.)	
)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.;)	
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**DECLARATION OF STEPHEN M. PAYNE IN SUPPORT OF NETLIST
INC.'S OPPOSITION TO SAMSUNG'S MOTION FOR SUMMARY
JUDGMENT OF NO PRE-SUIT DAMAGES (DKT. 338)**

I, Stephen M. Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Plaintiff Netlist, Inc. (“Netlist”) in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Netlist, Inc.’s Opposition to Samsung’s Motion for Summary Judgment of No Pre-Suit Damages (Dkt. 338). I have personal knowledge of the facts stated herein, and could and would testify completely thereto if called as a witness in this matter.

2. Attached as **Exhibit 1** is a true and correct copy of the document produced in this action at bates beginning NETLIST_SAMSUNG_EDTX00099068.

3. Attached as **Exhibit 2** is a true and correct copy of a Netlist presentation titled “Samsung/Netlist Meeting in San Jose,” dated April 11, 2012, produced at Bates beginning NETLIST_SAMSUNG_EDTX00055022.

4. Attached as **Exhibit 3** is a true and correct excerpted copy of a document produced in this action at Bates beginning NETLIST_SAMSUNG_EDTX00188299.

5. Attached as **Exhibit 4** is a true and correct excerpted copy of Exhibit A to the Opening Expert Report of Dr. William Henry Mangione-Smith, dated November 20, 2023.

6. Attached as **Exhibit 5** is a true and correct copy of United States Patent Number 11,093,417.

7. Attached as **Exhibit 6** is a true and correct copy of a Netlist presentation titled “Samsung/Netlist Partnership Opportunity,” dated April 2015, produced at Bates beginning NETLIST_SAMSUNG_EDTX00064073.

8. Attached as **Exhibit 7** is a true and correct copy of a Netlist document titled “Proposal to Samsung,” dated April 2015, produced at Bates beginning NETLIST_SAMSUNG_EDTX00034451.

9. Attached as **Exhibit 8** is a true and correct copy of an email from J. B. Kim to H. J. Kim re FW: Patent information for Samsung, dated November 8, 2016, with attachment titled “Netlist Patent Coverage,” English translation and Korean original, produced at Bates beginning NL046600.

10. Attached as **Exhibit 9** is a true and correct copy of a letter from J. Lo to E. Rhow re Notice of Infringement, produced at Bates beginning NETLIST_SAMSUNG_EDTX00190254.

11. Attached as **Exhibit 10** is a true and correct copy of email correspondence produced at Bates beginning NETLIST_SAMSUNG_EDTX00037799.

12. Attached as **Exhibit 11** is a true and correct copy of a document produced in this action at Bates beginning NETLIST_SAMSUNG_EDTX00037800.

13. Attached as **Exhibit 12** is a true and correct copy of a letter from J. Sohi to J. B. Lee [REDACTED] dated June 8, 2022, produced at Bates beginning NETLIST_SAMSUNG_EDTX00037348.

14. Attached as **Exhibit 13** is a true and correct copy of a document produced in this action at Bates beginning NETLIST_SAMSUNG_EDTX00037353.

15. Attached as **Exhibit 14** is a true and correct copy of a document, including English translation and Korean original, produced at Bates beginning NL107769.

16. Attached as **Exhibit 15** is a true and correct excerpted copy of Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc.’s Complaint for Declaratory Judgment of Non-Infringement and Unenforceability; Breach of Contract, dated October 15, 2021.

17. Attached as **Exhibit 16** is a true and correct excerpted copy of the transcript of the deposition of Chuck Hong in *Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.*, no. 2:22-cv-293, dated November 19, 2023.

18. Attached as **Exhibit 17** is a true and correct excerpted copy of the transcript of the deposition of Chuck Hong in *Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.*, no. 2:21-cv-463, dated

December 16, 2022.

19. Attached as **Exhibit 18** is a true and correct excerpted copy of **Exhibit 9** to the deposition of Chuck Hong in *Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.*, no. 2:22-cv-293, dated November 19, 2023.

20. Attached as **Exhibit 19** is a true and correct copy of the Report and Recommendation, docket number 429 in *Netlist, Inc. v. Micron Technology, Inc. et al.*, no. 2:22-cv-203, dated January 11, 2024.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 30, 2024, in Marshall, Texas.

By /s/ Stephen M. Payne
Stephen M. Payne